

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

CLEANUP AND ABATEMENT ORDER NO. R5-2015-0702
FOR

BRENT ALAN VANDERKAM
ASSESSOR PARCEL 099-120-035-000
SHASTA COUNTY

This Order is issued to Brent Alan Vanderkam (hereafter referred to as Discharger) based on provisions of Water Code section 13304, which authorizes the Central Valley Regional Water Quality Control Board (Central Valley Water Board) to issue a Cleanup and Abatement Order (Order), and Water Code section 13267, which authorizes the Regional Water Board to require the preparation and submittal of technical and monitoring reports.

The Assistant Executive Officer finds, with respect to the Discharger's acts, or failure to act, the following:

- 1. Purpose of the Order:** This order requires the Discharger to clean up and abate the effects of the discharges of nutrients, soil and rock into an unnamed class II tributary to Clover Creek, an anadromous Class I tributary to Cow Creek which is tributary to the Sacramento River and eliminate the threat of future discharges. The unnamed tributary is hereafter referred to as "Unnamed Tributary". The Unnamed Tributary is considered waters of the state, as well as, waters of the United States (references hereafter to waters of the United States are inclusive of waters of the state)¹. The Discharger or the Discharger's lessee graded more than two acres of land and filled waters of United States in May 2014, without authorization from applicable federal, state, and local agencies, including the Central Valley Water Board. The work was performed to create an area for the cultivation of marijuana. This Order requires investigation and cleanup in compliance with the Water Code, the Basin Plan, Resolution 92-49, and other applicable State and Regional Water Board plans, policies, and regulations.
- 2. Responsible Parties:** The Discharger, as the property owner and/or the person with the legal ability to control the activities on the property that resulted in the discharge and/or threat of discharge, is the responsible party for purposes of this Order. This Order finds that Mr. Vanderkam is the primary responsible party and is liable.

¹ The Regional Water Board administers and enforces the Clean Water Act (CWA). The CWA regulates what it refers to as "navigable waters" and defines those waters as "waters of the United States." Waters of the United States has been interpreted broadly by the agencies responsible for implementing the CWA to include all traditionally navigable waters and their tributaries. (40 C.F.R. 122.2) The Porter-Cologne Water Quality Control Act (Porter-Cologne) provides the Regional Water Board additional authority to regulate discharges of waste into "waters of the state." (Water Code, § 13260.) The term "water of the state" is defined as "any surface water or groundwater, including saline waters, within the boundaries of the state." (Water Code, § 13050, subd. (3).) All waters of the United States that are within the boards of California are also waters of the state for purposes of the Porter-Cologne.

- a. Per records from the Shasta County Assessor-Recorder's Office, Brent Alan Vanderkam owns just over 60 acres, identified as Assessor Parcel No. 099-120-035-000 (hereafter Site). The Site is located at 11550 Buggy Road in east Shasta County in Section 45, Township 32N, Range 1W, MDB&M; in the vicinity of latitude 40°37.496'N and longitude 122°0.592'W. Large scale grading and excavation operations were conducted at this Site which have caused and threaten to cause numerous unpermitted discharges of sediment and nutrients into the Unnamed Tributary and Clover Creek. Accordingly, Mr. Vanderkam, as the owner of the Site which sustains conditions that have resulted in the discharge and/or create a threat of discharge to waters of the United States, is a responsible party.
 - b. Based on satellite imagery and on statements made to California Department of Fish and Wildlife (CDFW) Wardens, and by neighboring property owners, grading commenced sometime in April or May of 2014. Mr. Vanderkam has also asserted that he leased the property to a third party who developed the Site but has not been willing to identify that third party. The Central Valley Water Board reserves the right to amend this CAO to add additional responsible parties if and when those parties are identified.
- 3. Site Location and Description:** The Site is located at 11550 Buggy Road in east Shasta County. Grading and fill activities occurred in the vicinity of latitude 40°37.496'N and longitude 122°0.592'W adjacent to and within the Unnamed Tributary to Clover Creek. This location is approximately 1.5 miles upstream of the Unnamed Tributary's confluence with Clover Creek.
- 4. Site History:** Per records from the Shasta County Assessor-Recorder's Office, Mr. Brent Vanderkam purchased the Site in February of 2014. The 60.2 acre parcel supports a single-family dwelling, with water supplied from a well on the property. The Site has no prior regulatory oversight or history with the Central Valley Water Board.
- 5. Factual Basis of Order:** The Discharger and/or the Discharger's lessee conducted activities detailed below that have created and/or threaten to create, conditions of pollution in waters of the state by unreasonably impacting water quality and beneficial uses.
- a. The Site sits adjacent to an Unnamed Tributary that is an intermittent Class II tributary (supporting non-fish aquatic species) to Clover Creek. Clover Creek is listed on the State's Clean Water Act (CWA) 303d list for pathogens and is susceptible to contaminants (such as sediment and nutrients) that may decrease the dissolved oxygen concentration and/or increase temperature enhancing pathogen environment. Grading at the site has resulted in the ground surface being stripped of vegetation and the upper soils lying vulnerable to wind and water erosion. The soils comprising the fill material placed within and alongside the Unnamed Tributary are comprised of clayey sand with about 90% fines. Clays and other fine grained earthen materials can be transported as suspended sediment and lead to increased water turbidity. Heavier particles such as sand and gravel generally settle out of the water column during decreased flows. Excessive suspended sediment and increased turbidity can impair water quality and aquatic life. These soils were classified using the Visual Classification of Soils - Unified Soil Classification System, ASTM Standard D 2488-00, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure) and cross referenced with the United States Department of Agriculture (USDA) Soil Survey of Shasta County Area, California (1974), which are identified as Toomes very stony loam and can be moderately to highly erosive. As documented in photographs as well as field turbidity measurements

during the on-site inspection, grading activity has resulted in the discharge of fill, sediment, and nutrients to the Unnamed Tributary and threatens future sediment discharges from storm water runoff and erosion of fill material placed adjacent to and within the Unnamed Tributary.

- b. On 17 November 2014, CDFW Warden Steven Crawl provided a declaration to Central Valley Water Board staff (Staff) describing a large grading operation adjacent to an ephemeral streambed off of Buggy Road in Millville, Shasta County. The declaration further alleged that this illegal grading, which included discharge of spoils directly to the Unnamed Tributary as well as a potential water diversion, was conducted to establish a large marijuana growing operation. Warden Crawl and Central Valley Water Board staff subsequently confirmed with the Shasta County Building Division that no permits had been issued for grading activities at the Site, but that the County had issued a grading violation and placed the property in non-compliance.
- c. On 20 November 2014, Central Valley Water Board staff obtained an inspection warrant granting access to the Site. As documented in the attached Buggy Road Inspection Report (Attachment 1), on 21 November 2014, Staff inspected the Site and observed two large berms of unprotected spoils from the grading and excavation activities; a significant amount of which had been discarded directly within the Unnamed Tributary, diverting and re-routing the natural flow of the drainage course. Staff calculated approximately 7,035 cubic yards of fill material exposed to erosion, more than 427 cubic yards of which had been placed directly into the streambed. Photographs of sediment movement and field turbidity measurements document the discharge of sediment in Site runoff. In addition to sediment discharge, Staff observed a large algal bloom indicating the potential for excess nutrient pollution from storm water originating on Site. Surface water samples were collected from locations upstream and downstream from the Site along with a sample of Site runoff. Analytical results confirmed the presence of nutrients in both Site runoff and downstream samples in concentrations greater than background levels (none detected upstream); likely a result of the abandoned and uncontained fertilizers, nutrients, and potting soil (including ingredients containing Nitrates and Total Phosphorus) observed on Site discharging into the Unnamed Tributary.

6. Beneficial Uses and Water Quality Objectives: The *Water Quality Control Plan for the Sacramento and San Joaquin River Basins, Fourth Addition*, (hereafter "Basin Plan") designates beneficial uses, establishes water quality objectives, contains implementation programs for achieving objectives, and incorporates by reference, plans and policies adopted by the State Water Resources Control Board. Clover Creek is a tributary of Cow Creek and hence the Sacramento River. Existing and potential beneficial uses for Cow Creek include the following: Municipal & Domestic Supply (MUN); Agricultural Supply (AGR); Industrial Power (POW); Water Contact (REC-1) & Other Non-contact Recreation (REC-2); Cold (COLD) Freshwater Habitat; Migration of Cold Freshwater Aquatic Organisms (MIGR); Spawning of Warm & Cold Freshwater Aquatic Organisms (SPWN); and Wildlife Habitat (WILD). Beneficial uses of any specifically identified water body generally apply to all of its tributaries.

- a. Beneficial uses of the underlying groundwater are municipal and domestic supply (MUN), agricultural supply (AGR), industrial service supply (IND), and industrial process supply (PRO).

- b. The Basin Plan lists specific water quality objectives for inland surface waters. These objectives include in part, limitations on increased temperature, sediment, settleable and suspended material, and turbidity.
- c. The State Water Board has adopted Resolution No. 92-49, *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304* ("Resolution 92-49"), which is included as Appendix 9 of the Basin Plan. Resolution 92-49 sets forth the policies and procedures to be used during an investigation and cleanup of a polluted site, and requires that cleanup levels be consistent with State Water Board Resolution 68-16, the *Statement of Policy with Respect to Maintaining High Quality Waters in California* ("Resolution 68-16"). Resolution 92-49 requires the waste to be cleaned up in a manner that promotes attainment of either background water quality, or the best water quality which is reasonable if background levels of water quality cannot be restored. Any alternative cleanup level to background must: (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Water Board. Resolution 92-49 directs that investigations proceed in a progressive sequence. To the extent practical, it directs the Regional Water Board to require and review for adequacy written work plans for each element and phase, and the written reports that describe the results of each phase of the investigation and cleanup.

7. Failure to Obtain Necessary Permits: Central Valley Water Board staff determined that the grading and clearing activities at the Site occurred without coverage under any of the following regulatory permits:

- a. a National Pollutant Discharge Elimination System (NPDES) permit;
- b. a Clean Water Act (CWA) section 404 permit from the Army Corps of Engineers
- c. a CWA section 401 Water Quality Certification issued by the Central Valley Water Board;
- d. a CDFW Lake and Streambed Alteration (LSA) Agreement; nor
- e. a grading Permit issued by Shasta County.

8. Legal Authority to Require Clean Up and Abatement. Water Code section 13304, subdivision (a) states, in relevant part:

Any person who has discharged or discharges waste into waters of this state in violation of any waste discharge requirements or other order to prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and causes, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including, but not limited to, overseeing cleanup and abatement efforts....Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to

grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.

- 9. Clean Water Act Violations:** The Clean Water Act prohibits certain discharges of storm water containing pollutants except in compliance with a NPDES permit. Discharges to surface waters comprised of storm water associated with construction activity, including clearing, grading, excavation, and other land disturbance activities (except operations that result in disturbance of less than one acre of total land area and which are not part of a larger common plan of development or sale), are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities, NPDES No. CAS000002, Order No. 2009-0009-DWQ (General Permit). Furthermore, CWA section 404 requires any person proposing to discharge dredge or fill material into navigable water of the United States to obtain a Section 404 permit prior to such discharge. CWA section 401 requires that any person obtaining a Section 404 permit, obtain water quality certification from the State in which the discharge occurs.
- a. Staff sampled and confirmed the presence of elevated nutrients (nitrate and total phosphorus) originating near a large mixing tank from leaking bags of fertilizer and uncontained potting soil discharging to the Unnamed Tributary.
 - b. Staff documented turbid plumes and discharge of sediment-laden storm water from disturbed surfaces discharging from the Site to the Unnamed Tributary. Turbidity measurements collected downstream from the Site exceed Basin Plan objectives for turbidity increases where natural turbidity upstream measured between 1 and 5 NTUs². Field turbidity measurements downstream from the Site discharge exceeded background upstream measurements by nearly 30 NTUs.
 - c. The Discharger is responsible for approximately 2.26 acres of clearing, grading, excavation, and/or land disturbance at the Site.
 - d. Staff observed a significant area of disturbed ephemeral streambed (68 yards as calculated), a portion of which was filled with spoils from excavation activities. More than 427 cubic yards of fill material was placed in the ephemeral streambed of the Unnamed Tributary at the Site.
 - e. Based on informal consultation with US Army Corps of Engineers, the land disturbance associated with the Site has likely compromised jurisdictional seasonal wetlands/vernal pool habitat within the approximate 2.26 acres of graded area. Jurisdictional seasonal wetlands/vernal pool habitat can be Waters of the United States.

² The Basin Plan lists the following limitations for turbidity attributable to controllable water quality factors:

- Where natural turbidity is less than 1 Nephelometric Turbidity Unit (NTU), controllable factors shall not cause downstream turbidity to exceed 2.
- Where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU.
- Where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent.
- Where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs.
- Where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

10. Water Code Violations: The placement of fill into the Unnamed Tributary, and the discharge of storm water containing sediment, excess nutrients from fertilizers, and potting soil are discharges of waste to waters of the state in violation of Water Code sections 13260³ and 13376⁴, and which create a condition of pollution subject to this Order in accordance with Water Code section 13304.

- a. "Waste" is defined by Water Code section 13050, subdivision (d) as,

sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

- b. Sediment and nutrients, when discharged to waters of the state, are deemed a "waste" as defined in Water Code section 13050. The Discharger has discharged, or permitted his lessee to discharge, waste directly into surface waters tributary to Clover Creek, which is tributary to Cow Creek. Accordingly, the beneficial uses of Cow Creek discussed above in paragraph no. 6 also apply to all of its tributaries.

- c. "Pollution" is defined by Water Code section 13050, subdivision (l)(1) as,

an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

- 1. The waters for beneficial uses;*
- 2. Facilities which serve these beneficial uses*

- d. The clearing and grading activities conducted by the Discharger, and/or his lessee, in addition to improper storage of fertilizers and soil amendments have resulted in the unauthorized discharge of waste into surface waters and surface water drainage courses and have created, and threaten to create, a condition of pollution by unreasonably affecting the beneficial uses of waters of the state.
- i. Discharges of sediment and other inert material alter the hydrologic and sediment transport regimes of the Unnamed Tributary by affecting the flow of water and establishment of vegetation. Such changes may lead to adverse conditions such as flooding, increases in suspended sediment and turbidity, accelerated erosion of the adjacent channel bed or banks, and localized accumulation of deleterious materials. Additionally, such discharges directly threaten habitat for aquatic species dependent upon native sediment and vegetation characteristics (MIGR, SPWN, and WILD). Increased sedimentation and turbidity can result in increased

³ Pursuant to Water Code section 13260, subd. (a)(1) "[a]ny person discharging waste or proposing to discharge waste, within any region that could affect the quality of the waters of the state..." shall file a report of waste discharge. The Regional Board has not received a 401 application or report of waste discharge for wastes discharged at the Site.

⁴ Pursuant to Water Code section 13376 "[a]ny person discharging pollutants or proposing to discharge pollutants to the navigable waters of the United States within the jurisdiction of this state or any person discharging dredged or fill material into the navigable waters of the United States within the jurisdiction of this state shall file a report of the discharge in compliance with the procedures set forth in Section 13260, except that no report need be filed under this section for discharges that are not subject to the permit application requirements of the Federal Water Pollution Control Act, as amended."

treatment and/or maintenance costs for downstream agricultural and municipal users that withdraw and treat the water (AGR, and MUN). Sediment laden storm water discharges to and the resulting turbidity within surface waters can also affect the recreational and aesthetic enjoyment of the surface waters (REC-1, REC-2).

- ii. Discharge of excess nutrients, especially nitrates and phosphorus, can lead to eutrophication and algal blooms. Algal blooms can block out light, clog fish gills, and cause an increase for biological oxygen demand as they die, severely lowering dissolved oxygen levels available to sustain aquatic ecosystems. Lowered dissolved oxygen concentrations can also provide favorable conditions for proliferation of pathogenic bacteria. In addition, excess nutrients can contribute to toxic algal blooms which create bioaccumulative toxins that can be deleterious to aquatic ecosystems and wildlife that may consume aquatic fauna (WILD, MIGR, SPWN). Eutrophication and algal blooms can also affect the recreational and aesthetic enjoyment of surface waters. Direct exposure to toxic algae can lead to rashes, respiratory problems, and neurological effects in humans, and can raise costs for water treatment plants and contribute to harmful byproducts when treated (REC-1, REC-2, MUN).

11. Cleanup and Abatement Action Necessary: Untreated storm water from the Site has discharged, and continues to discharge, sediment and nutrients into the Unnamed Tributary. Approximately 7,035 cubic yards of fill material remains on Site as loosely compacted spoils with no erosion control to protect from weathering and further discharge to the Unnamed Tributary. Over 427 cubic yards of these spoils remain within the Unnamed Tributary. Abandoned, open bags of fertilizer and loose potting soils have spilled and are left improperly stored on Site. Cleanup and abatement is necessary to ensure that the existing condition of pollution is cleaned up, that threatened unauthorized discharges to surface waters or surface water drainage courses originating from the Site are prevented, background water quality levels are restored, and that any impacts to beneficial uses are mitigated. The current condition of pollution is a priority violation as outlined in the State Water Resources Control Board Water Quality Enforcement Policy (Enforcement Policy) and the issuance of a cleanup and abatement order pursuant to Water Code section 13304 is appropriate and consistent with policies of the Central Valley Water Board.

12. Technical Reports Required: Water Code section 13267(a) provides that the Regional Water Board may investigate the quality of any water of the State within its region in connection with any action relating to the Basin Plan. Water Code section 13267, subdivision (b) provides that the Regional Water Board, in conducting an investigation may require a discharger to furnish, under penalty of perjury, technical or monitoring program reports. The technical reports required by this Order are necessary to assure compliance with this Order and to protect the waters of the state. The technical reports are further necessary to demonstrate that appropriate methods will be used to cleanup waste discharged to surface waters and surface water drainage courses and to ensure that cleanup complies with Basin Plan requirements. In accordance with Water Code section 13267, subdivision (b) the findings in this Order provide the Discharger with a written explanation with regard to the need for remedial action and reports and identify the evidence that supports the requirement to implement clean up and abatement activities and submit the reports. The Discharger named in this Order owns and/or operates the Site from which waste was discharged, and thus is appropriately responsible for providing the reports.

13. California Environmental Quality Act: Issuance of this Order is being taken for the protection of the environment and to enforce the laws and regulations administered by the Regional Board as such is exempt from provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) in accordance with California Code of Regulations, title 14, sections 15061, subdivision (b)(3), 15306, 15307, 15308, and 15321. This Order generally requires the Discharger to submit plans for approval prior to implementation of cleanup and restoration activities at the Site. Mere submittal of plans is exempt from CEQA as submittal will not cause a direct or indirect physical change in the environment and/or is an activity that cannot possibly have a significant effect on the environment. CEQA review at this time would be premature and speculative, as there is simply not enough information concerning the Discharger's proposed remedial activities and possible associated environmental impacts. To the extent that the Order requires earth disturbing and revegetation activities not to exceed five acres in size and to assure restoration of stream habitat and prevent erosion, this Order is exempt from provisions of CEQA pursuant to California Code of Regulations, title 14, section 15333. If the Regional Board determines that implementation of any plan required by this Order will have a significant effect on the environment that is not otherwise exempt from CEQA, the Regional Board will conduct the necessary and appropriate environmental review prior to approval of the applicable plan. The Discharger will bear the costs, including the Regional Board's costs, of determining whether implementation of any plan required by this Order will have a significant effect on the environment and, if so, in preparing and handing any documents necessary for environmental review. If necessary, the Discharger and a consultant acceptable to the Regional Water Board shall enter into a memorandum of understanding with the Regional Water Board regarding such costs prior to undertaking any environmental review.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that, pursuant to Water Code sections 13267 and 13304, that Mr. Brent Alan Vanderkam (Discharger) shall cleanup and abate the discharge and threatened discharge of earthen materials, soil, and sediment to waters of the United States as follows:

1. **By 1 May 2015**, submit plans prepared by an appropriately licensed professional for the completion of stabilization and mitigation efforts necessary to minimize erosion and further discharge of sediment and nutrients to the Unnamed Tributary during the winter and spring 2015 including but not limited to the following:
 - a. A detailed Site map accurately depicting topography, graded/disturbed surfaces, earthen side cast material, and all surface water courses/drainages,
 - b. Identification of all locations where sediment has discharged to surface waters or surface water drainage courses,
 - c. Using the above information, identify all areas of immediate concern, along with proposed emergency mitigation measures to be implemented at each area of concern necessary to stabilize the Site during the winter and spring 2015.
 - d. Remove and properly store fertilizers and soil amendments to cease additional nutrient discharge to the Unnamed Tributary.
 - e. Stabilize all disturbed areas with erosion control mulches, blankets, mats, tarps, or other accepted erosion control equipment in sufficient quantities to protect the disturbed soil surface from the forces of rain drop impact and overland flow.

- f. A monthly monitoring report assessing site conditions and providing notice and photograph of mitigation measures completed, and recommendations for additional emergency measures or repairs to previously identified areas of immediate concern where appropriate.

Central Valley Water Board staffs will review the Interim Plan in consultation with the Discharger or his authorized agent(s) and other responsible agencies immediately upon receipt. Once approved work shall begin immediately, but no later than 10 business days, to implement the proposed emergency measures.

2. **By 15 July 2015**, the Discharger shall provide a proposed **Restoration, Mitigation, and Monitoring Plan** (hereafter "RMMP"). The RMMP shall include but not be limited to:

- a. A completed Wetland Delineation for the Site to include: all lands disturbed by excavation and a 100ft zone beyond the disturbed area in all directions, as well as the length of the affected Unnamed Tributary and its banks to the Western property line.
- b. An assessment of the impacts to the Unnamed Tributary to Clover Creek, Class I tributary of Cow Creek from the unauthorized activities, to be completed by the appropriate qualified professional. This assessment, at a minimum, must address channel hydrology, riparian habitat and loss thereof, channel stability, and locations where fill material has been placed or discharged; and shall include aerial photographs and/or satellite images, photographs, reports, topographic maps or drawings, etc., of Site conditions prior to conducting the un-permitted activities. Assessment findings shall serve as the basis for the RMMP.
- c. The RMMP shall include plans for Site restoration and proposed mitigation to restore beneficial uses by restoring the channel and potential seasonal wetlands to pre-discharge conditions and to compensate for and minimize any further impacts to the wetlands and Unnamed Tributary. Best management practices shall be applied to all current and planned work associated with construction activities on the Site impacting, or having the potential to impact, the Unnamed Tributary. The RMMP shall contain, at a minimum, design specifications and drawings, an implementation schedule, and a monitoring plan. The RMMP shall incorporate use of appropriate native or endemic species in all re-vegetation efforts.
- d. The implementation schedule in the RMMP shall include detailed project milestones that take into account the time anticipated to obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order. For example, it is likely that a LSA Notification will be required under Fish and Game Code (FGC) section 1602. CDFW has 30 days to determine if such notification is complete and an additional 60 days to issue a draft LSA agreement, which will include measures necessary to protect the resources. The time for providing that notice and obtaining that agreement should be considered and accounted for when developing a RMMP that complies with the deadlines provided in this Order.

3. **By 1 August 2015**, begin implementation of the RMMP.

4. **By 15 October 2015**, complete all approved restoration and mitigation measures described in the proposed RMMP.
5. **By 1 December 2016**, submit a **Completion Report** for the RMMP. The Completion Report shall accurately depict all construction and/or mitigation measures and document that the above plan to restore, compensate for, and minimize any further impacts to the unnamed tributary of Clover Creek has been fully implemented.
6. **By October 1 of each year** (starting 1 October 2016) submit an annual monitoring report. The Annual Monitoring Report shall summarize monitoring results of RMMP and shall continue until at least three years after successful completion of the RMMP, or until a report, acceptable to the Assistant Executive Officer, is submitted showing the discharger has met the requirements of the RMMP.

GENERAL REQUIREMENTS AND NOTICES

7. **Duty to Use Qualified Professionals:** The Discharger shall provide documentation that plans, and reports required under this Order are prepared under the direction of appropriately qualified professionals. As required by the California Business and Professions Code sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. The Discharger shall include a statement of qualification and registration numbers, if applicable, of the responsible lead professionals in all plans and reports required under this Order. The lead professional shall sign and affix their registration stamp, as applicable, to the report, plan, or document. The required activities must be implemented by the appropriately qualified/licensed professionals as otherwise required by law.
8. **Signatory Requirements:** All technical reports submitted by the Discharger shall include a cover letter signed by the Discharger, or a duly authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Discharger shall also state if it agrees with any recommendations/proposals and whether it approves implementation of said proposals. Any person signing a document submitted under this Order shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my knowledge and on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

9. **Notice of Onsite Work:** The Discharger or his authorized agent(s) shall notify Board staff at least 48 hours prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.

10. **Notice of Change in Ownership or Occupancy:** Report Any Changes in Ownership or Occupancy: The Discharger shall file a written report on any changes in the Site's ownership or occupancy. This report shall be filed with the Central Valley Water Board no later than 30 days prior to a planned change and shall reference the number of this Order.
11. **Submissions:** All monitoring reports, technical reports or notices required under this Order shall be submitted to:
- Ashley Hampton
364 Knollcrest Dr., Ste.205
Redding, CA 96002
(530) 224-6130
12. **Other Regulatory Requirements:** The Discharger shall obtain all applicable local, state, and federal permits necessary to fulfill the requirements of this Order prior to beginning the work. For example, FGC section 1602 requires a person or entity to notify CDFW before: 1) substantially diverting or obstructing the natural flow of a river, stream, or lake; 2) substantially changing the bed, channel, or bank of a river, stream, or lake; 3) using any material from the bed, channel, or bank of a river, stream, or lake; and/or 4) depositing or disposing of debris, waste, material containing crumbled, flaked, or ground pavement where it may pass into a river, stream, or lake. The failure to notify CDFW constitutes a violation of FGC section 1602.
13. **Cost Recovery:** Pursuant to Water code section 13304, the Regional Water Board is entitled to, and may seek reimbursement for, all reasonable costs it actually incurs investigating and abating the effects of the unauthorized discharges of waste and to oversee/supervise the cleanup of such waste, or other remedial action, required by this Order. The Discharger shall enroll in the State Water Board's Cost Recovery Program and shall reimburse the State of California for all reasonable costs actually incurred by the Regional Board.
14. **Delayed Compliance:** If for any reason, the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Assistant Executive Officer, the Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as a delay is recognized and prior to the compliance date. An extension may be granted by revision of this Order or by a letter from the Assistant Executive Officer. The Regional Water Board acknowledges that local, state, and federal permits may cause a delay beyond the control of the Discharger and will take all the available relevant facts into consideration when considering whether or not to grant an extension request.
15. **Potential Liability:** If the Discharger fails to comply with the requirements of this Order, this matter may be referred to the Attorney General for judicial enforcement or may issue a complaint for administrative civil liability. Failure to comply with this Order may result in the assessment of an administrative civil liability up to \$10,000 per violation per day, pursuant to California Water Code sections 13268, 13350, and/or 13385. The Regional Water Board reserves its right to take any enforcement actions authorized by law, including but not limited to, violation of the terms and condition of this Order.

16. **No Limitation of Water Board Authority.** This Order in no way limits the authority of the Regional Water Board to institute additional enforcement actions or to require additional investigation and cleanup of the Site consistent with the Water Code. This Order may be revised as additional information becomes available.
17. **Modifications.** Any modification to this Order shall be in writing and approved by the Regional Water Board, including any potential extension requests.
18. **Requesting Review by the State Water Board:** Any person aggrieved by this or any final action of the Regional Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and Title 23, California Code of Regulations, section 2050 et al. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality

or will be provided upon request.

This Order is effective upon the date of signature.

Clint E. Snyder, Assistant Executive Officer

(Date)

Attachment 1 – November 21, 2014, Buggy Road Inspection Report

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